

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

June 29, 2018

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 18-11703-G
Case Style: National Labor Relations Board v. Boulder Contracting Inc.
Agency Docket Number: 10-CA-189876

A copy of this letter, and the judgment form if noted above, but not a copy of the court's decision, is also being forwarded to counsel and pro se parties. A copy of the court's decision was previously forwarded to counsel and pro se parties on the date it was issued.

The enclosed copy of the judgment is hereby issued as mandate of the court. The court's opinion was previously provided on the date of issuance.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Lois Tunstall
Phone #: (404) 335-6191

Enclosure(s)

MDT-1 Letter Issuing Mandate

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

NATIONAL LABOR RELATIONS BOARD

Petitioner

v.

BOULDER CONTRACTING INC.

Respondent

:
:
: No.
:
: Board Case Nos.:
: 10-CA-189876
: 10-CA-193007
:

JUDGMENT ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

Before:

This cause was submitted upon the application of the National Labor Relations Board for summary entry of a judgment against Respondent, Boulder Contracting Inc., its officers, agents, successors, and assigns, enforcing its order dated March 16, 2018, in Case Nos. 10-CA-189876 and 10-CA-193007, reported at 366 NLRB No. 37, and the Court having considered the same, it is hereby:

ORDERED AND ADJUDGED by the Court that the Respondent, Boulder Contracting Inc., its officers, agents, successors, and assigns, shall abide by said order (See Attached Order and Appendix).

Mandate shall issue forthwith.

ENTERED:

NATIONAL LABOR RELATIONS BOARD

v.

BOULDER CONTRACTING INC.

ORDER

Boulder Contracting Inc., Canton, Georgia, its officers, agents, successors, and assigns shall

1. Cease and desist from
 - (a) Discharging or otherwise discriminating against employees for engaging in protected concerted activities.
 - (b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act:
 - (a) Within 14 days from the date of this Order, offer Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions, without prejudice to their seniority or any other rights or privileges previously enjoyed.
 - (b) Make Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales whole for any loss of earnings and other benefits they may have suffered as a result of their unlawful discharges, in the manner set forth in the remedy section of this decision.
 - (c) Compensate Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and file with the Regional Director for Region 10, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

- (d) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharges, and within 3 days thereafter, notify the employees in writing that this has been done and that the unlawful discharges will not be used against them in any way.
- (e) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.
- (f) Within 14 days after service by the Region, post at its Canton, Georgia facility, copies of the attached notice marked "Appendix." Copies of the notice, on forms provided by the Regional Director for Region 10, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since November 24, 2016.
- (g) Within 21 days after service by the Region, file with the Regional Director for Region 10 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

APPENDIX

NOTICE TO EMPLOYEES
POSTED PURSUANT TO A JUDGMENT OF
THE UNITED STATES COURT OF APPEALS ENFORCING
AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO
Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities.

WE WILL NOT discharge you or otherwise discriminate against you for engaging in protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL, within 14 days of the Board's Order, offer Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales full reinstatement to their former jobs or, if those jobs no longer exist, to substantially equivalent positions without prejudice to their seniority or any other rights or privileges previously enjoyed.

WE WILL make employees Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales whole for any loss of earnings and other benefits suffered as a result of their unlawful discharges, less any net interim earnings, plus interest, plus reasonable search-for-work and interim employment expenses.

WE WILL compensate Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales for the adverse tax consequences, if any, of receiving lump-sum backpay awards, and **WE WILL** file with the Regional Director for Region 10, within 21 days of the date the amount of backpay is fixed, either by agreement or Board order, a report allocating the backpay awards to the appropriate calendar years.

WE WILL, within 14 days from the date of the Board's Order, remove from our files any reference to our unlawful discharges of Santiago Zavala-Gonzalez, Ruben de Hoyos de Leon, and Gabriel Gonzales and **WE WILL**, within 3 days thereafter,

notify them in writing that this has been done and that the unlawful discharges will not be used against them in any way.

BOULDER CONTRACTING INC.

The Board's decision can be found at www.nlr.gov/case/10-CA-189876 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

